

26. "Sam" informed Plaintiff that Defendant was calling for Toby Feiler.

27. Plaintiff stated clearly and emphatically that Defendant was placing calls to her telephone and that although Toby Feiler is her daughter who lives with her, Plaintiff wanted all calls to her telephone to cease.

28. "Sam" asked to speak to Plaintiff's daughter.

29. Plaintiff repeated her request that Defendant stop calling her telephone number.

30. "Sam" replied: "We're going to call back later."

31. Defendant thereafter placed auto-dialed calls to Plaintiff's telephone number which calls continue.

32. Defendant's calls were made to Plaintiff's telephone on, among other dates: January 12, 18 (twice), 19 (twice), 20 (twice), 2016, after being requested to stop calling.

33. Defendant's calls originated from numbers 201-706-7409, 201-984-4609 and 201-984-7678.

34. The Plaintiff never gave the Defendant her prior express permission to call her cell phone via the use of an automated telephone dialing system.

35. Plaintiff had no wish to be contacted on her cell phone via the use of an autodialer, and expressly directed Defendant to stop calling her cell number.

36. By placing auto-dialed calls to the Plaintiff's cell phone, the Defendant violated 47 USC Section 227(b)(A)(iii) which prohibits using any automated telephone

dialing system or an artificial prerecorded voice to any telephone number assigned to a cellular service when calling to the Plaintiff's cell phone.

FIRST CAUSE OF ACTION
(Violations of the TCPA)

37. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "36" herein with the same force and effect as if the same were set forth at length herein.

38. According to the Telephone Consumer Protection Act 47 USC §227(b)(A)(iii), any person within the United States or any person outside the United States, if the recipient is within the United States, is prohibited from using any automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service or any service for which the called party is charged for the call.

39. With the autodialer calls to Plaintiff's telephone commencing on or about January 1, 2016 and continuing at a rate of up to twelve (12) times thereafter, the Defendant violated various provisions of the TCPA, including but not limited to 47 USC §227(b)(A)(iii).

40. The Defendant, having been informed that Plaintiff requested that no further calls be received, Defendant willfully violated the TCPA at least seven (7) times.

41. Upon information and belief, Defendant has implemented a policy in

business practice which trains, instructs and/or sanctions employees and agents exemplified by "Sam" to ignore consumers' requests to cease calling their telephones.

42. Defendant violated various provisions of the TCPA, including but not limited to 47 USC §227(b)(A)(iii).

DEMAND FOR TRIAL BY JURY

43. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendant as follows:

- A. For actual damages provided and pursuant to 47 USC §227;
- B. For trebled damages to be awarded to the Plaintiff in accordance with the TCPA, for each of the Defendant's willful or knowing violations of the TCPA.
- C. For statutory damages provided and pursuant to 47 USC §227;
- D. For attorneys' fees and costs provided and pursuant to 15 USC §227;
- E. A declaration that the Defendant's practices violated the TCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: March 22, 2016

Respectfully submitted,



EDWARD B. GELLER, ESQ.(EG9763)

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M. HARVEY REPHEN & ASSOCIATES, P.C.

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(Via Prescribed Service)

Clerk of the Court,
United States District Court, District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street Room 2020
Trenton, New Jersey 08608

(Via Electronic Court Filing)